

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 596

S.P. 230

In Senate, February 17, 1995

An Act to Expand the Uses of the Economic Opportunity Fund.

(EMERGENCY)

Submitted by the Department of Economic and Community Development pursuant to Joint Rule 24.

Reference to the Committee on Business and Economic Development suggested and ordered printed.

A handwritten signature in cursive script that reads "May M. Ross".

MAY M. ROSS
Secretary of the Senate

Presented by Senator HARRIMAN of Cumberland.
Cosponsored by Representative: ROWE of Portland.

2 **Emergency preamble. Whereas,** Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

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6 **Whereas,** the current scope of the Economic Opportunity Fund
limits the type of economic development activities that can be
supported with the fund; and

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10 **Whereas,** numerous nonprofit and regional organizations exist
in the State that provide needed economic development services to
businesses and communities throughout the State; and

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14 **Whereas,** the current limitations of the fund prevent the
State from utilizing the fund to leverage federal grants for
economic development purposes; and

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18 **Whereas,** the effectiveness of the fund could be increased by
allowing organizations to expand funds through grants to business
entities and by allowing use of funds to leverage federal grant
funds; and

22 **Whereas,** federal funds already approved and received by the
State for the purpose of stimulating economic development will be
jeopardized without immediate expansion of the scope of the fund
to allow more flexible use of funds; and

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28 **Whereas,** in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
Maine and require the following legislation as immediately
necessary for the preservation of the public peace, health and
safety; now, therefore,

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34 **Be it enacted by the People of the State of Maine as follows:**

36 **Sec. 1. 5 MRSA §13090-B,** as enacted by PL 1991, c. 780, Pt.
N, §1, is amended to read:

38 **§13090-B. Economic Opportunity Program**

40 The Economic Opportunity Program, referred in this section
as the "program," is established to provide grants to
42 municipalities and local and regional nonprofit organizations for
public and private investments to stimulate economic growth.

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46 **1. Eligibility.** Municipalities and local and regional
nonprofit organizations may apply to the department for grants
under the program. Funds may be loaned to a private business
48 entity or expended in a manner that is approved by the department
and that stimulates economic growth. ~~Municipalities--shall~~
50 ~~Organizations receiving funds may loan money from those grants to~~

business entities. Loans must be based on the following
eligibility criteria.

A. The projects to be financed must:

(1) Pertain to manufacturing, industrial, real estate development, recreational or natural resource enterprises;

(2) Be located or establishing a presence in the State; and

(3) Provide significant public benefit in relation to the amount of the loan, as determined by the department. Public benefits include, but are not limited to: increased opportunities for employment; increased capital flows, particularly of capital from outside the State; increased state and municipal tax revenues; rehabilitation of blighted or underutilized areas; and provision of necessary services.

Loan proceeds may be used for any appropriate commercial purpose, as determined by the department, including working capital.

B. The department must determine that the borrower is a for-profit or nonprofit commercial entity and that it is creditworthy and reasonably likely to repay the loan.

C. The department must determine that the loan is necessary to implement the project because the borrower either has insufficient access to other funds or demonstrates, and the department determines, that the project would not provide the projected public benefits without the availability of the loan.

D. The department must determine that the project would not result in a substantial detriment to existing business in the State. In making this determination, the department shall consider factors it considers necessary to measure and evaluate the effect of the project on existing business, including:

(1) Whether a loan for a project should be approved if, as a result of the project, there would not be sufficient demand within the market area of the State served by the project to employ the efficient capacity of existing business; and

2 (2) Whether any adverse economic effect of the project
3 on existing business or other municipalities is
4 outweighed by the contribution that the project would
5 make to the economic growth and vitality of the State.

6 The applicant for the loan has the burden of demonstrating a
7 reasonable likelihood that the project would not result in a
8 substantial detriment to existing business or other
9 municipalities, except in cases in which no interested
10 parties object to the project, in which event the
11 requirements of this paragraph are satisfied. Interested
12 parties must be given an opportunity, with or without a
13 hearing at the discretion of the department, to present
14 their objections to the project on grounds that the project
15 would result in a substantial detriment to existing business
16 or other municipalities. If such a party presents these
17 objections with reasonable specificity and persuasiveness,
18 the department may divulge whatever information concerning
19 the project it considers necessary for a fair presentation
20 by the objecting party and evaluation of such objections.
21 If the department finds that the applicant has failed to
22 meet its burden of proof as specified in this paragraph, the
23 application must be denied.

24 **2. Terms and conditions.** The department may establish
25 prudent terms and conditions for loans, grants and other
26 investments, including limiting the amount of loans funds for any
27 one project and requiring adequate collateral for the loans.
28 Loan terms may not exceed 20 years for loans primarily secured by
29 real estate, 10 years for loans secured primarily for machinery
30 and equipment and 7 years for other loans. The interest rate
31 charged on each loan must be determined on a case-by-case basis.

32 **3. Rulemaking.** The department shall establish rules to
33 implement the program.

34 **Emergency clause.** In view of the emergency cited in the
35 preamble, this Act takes effect when approved.

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42 **STATEMENT OF FACT**

43 The purpose of this bill is to broaden the application of
44 the Economic Opportunity Program to allow more flexibility in the
45 use of the Economic Opportunity Fund to aid development
46 activities that stimulate economic growth. This bill allows
47 local and regional nonprofit organizations to apply for grants
48 from the fund for approved projects that stimulate economic
49 growth. Organizations receiving funds will continue to be
50 eligible to loan funds from grants they receive from the fund to

2 business entities. However, organizations receiving funds may also utilize them for grants and other investments approved by the Department of Economic and Community Development.